

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

KYLE PETERSEN,  
Plaintiff,

v.

MEKIASH BUYARD,  
Defendant.

No. 1:20-cv-00999-DAD-EPG (PC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND STAYING  
THIS CASE

(Doc. No. 7)

Plaintiff Kyle Petersen is a federal prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action brought pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On September 9, 2020, the assigned magistrate judge issued findings and recommendations recommending that this action be stayed pending resolution plaintiff's appeal to the Ninth Circuit of the court's denial of his motion to suppress evidence seized pursuant to various searches of his cellular phone in connection with the investigation of his criminal case, *United States v. Petersen*, 1:17-cr-00255-NONE-SKO, because plaintiff's § 1983 claims in this civil action concern the constitutionality of those same searches. (Doc. No. 7.) The magistrate judge also recommended that "[w]ithin 30 days of Plaintiff receiving an opinion from the Ninth Circuit concerning his appeal, Plaintiff be ordered to file such opinion together with a statement regarding whether he wishes to proceed in this action." (*Id.* at 7.) Those pending findings and

1 recommendations were served on plaintiff and contained notice that any objections thereto were  
2 to be filed within twenty-one (21) days after service. (*Id.*) To date, no objections have been filed,  
3 and the time in which to do so has since passed.


4 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a  
5 *de novo* review of the case. Having carefully reviewed the entire file, the court concludes that the  
6 findings and recommendations are supported by the record and proper analysis.

7 Accordingly,

- 8 1. The findings and recommendations issued on September 9, 2020 (Doc. No. 7) are  
9 adopted in full;
- 10 2. This action is stayed pending resolution of plaintiff's appeal to the Ninth Circuit in  
11 his criminal case, *United States v. Petersen*, 1:17-cr-00255-NONE-SKO,  
12 concerning the searches of his cellular phones;
- 13 3. Within 30 days of plaintiff receiving an opinion from the Ninth Circuit concerning  
14 his appeal, plaintiff shall file a copy of that Ninth Circuit opinion together with a  
15 statement regarding whether he wishes to proceed in this action; and
- 16 4. This action is referred back to the assigned magistrate judge for further  
17 proceedings consistent with this order.

18 IT IS SO ORDERED.

19 Dated: **October 19, 2020**

20   
21 \_\_\_\_\_  
22 UNITED STATES DISTRICT JUDGE  
23  
24  
25  
26  
27  
28